UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW HAMPSHIRE

NEW HAMPSHIRE YOUTH MOVEMENT, *Plaintiff*, v. DAVID M. SCANLAN, in his official capacity as New Hampshire Secretary of State, *Defendant*.	Consolidated Cases No. 1:24-cv-00291-SE-TSM
COALITION FOR OPEN DEMOCRACY, *et al.*, *Plaintiffs*, v. DAVID M. SCANLAN, in his official capacity as New Hampshire Secretary of State, *et al.*, *Defendants*.	

PLAINTIFF NEW HAMPSHIRE YOUTH MOVEMENT'S OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

The Court should deny Defendant's Motion for Summary Judgment. *See* ECF No. 88 ("Motion" or "Mot."); ECF No. 88-1 ("Memorandum" or "Mem.").

INTRODUCTION

Defendant's Motion for Summary Judgment, ECF No. 88-1 ("Mem."), rehashes a challenge to Plaintiff New Hampshire Youth Movement's standing that the Court already rejected at the motion to dismiss stage, ECF No. 76. Nothing meaningful has changed. The Court held in denying the motion to dismiss that by making it substantially harder for New Hampshire residents to register, House Bill 1569's elimination of Qualified Voter Affidavits ("QVAs") for citizenship

directly injures Youth Movement by making its core voter-registration and voter-turn-out activities harder. *Id.* at 6–9. And the Court also held that HB 1569 injures Youth Movement's members by making it harder for them to register. *Id.* at 10–17. Plaintiff has record evidence supporting both of those key points, and there is no basis for the Court to revisit its prior conclusions. The Court should therefore deny the Motion and allow the case to proceed to trial.

STATEMENT OF MATERIAL FACTS IN DISPUTE

As applicable to Youth Movement, the Secretary's statement of material facts is located at pages 5–8, 12–14, 20–21, 25, and 30–33. Youth Movement addresses each in turn.

I. Pages 5 to 8: "Facts" about New Hampshire law.

The "material facts" described on pages five to eight in the Secretary's Motion are not facts at all. They are legal conclusions, backed exclusively by legal citations, about what New Hampshire law provides and requires. They are therefore not properly subject to Local Rule 56.1(b). *Cf. Jespersen v. Colony Ins. Co.*, No. 21-cv-846, 2023 WL 3584607, at *2 n.2 (D.N.H. May 22, 2023) (noting that a "statement of 'undisputed' facts replete with argumentation, legal citations, 'spin,' and disputed factual assertions . . . detracts from the purpose of the statement").

In any event, the Secretary's legal assertions in this portion of his brief are largely undisputed, with a few exceptions. First, Youth Movement denies the Secretary's statement that "[e]xecuting a QVA" required the voter to, "in most instances, sit for a photograph." Mem. at 7. No photo is required when an affidavit is used to prove citizenship, *see* RSA 654:12, I(a) (2023), and most QVAs were used to prove citizenship, Ex. 1, Expert Report of Dr. Herron ("Herron Report") at 25–26; *see also* Ex. 2, Suppl. Report of Dr. Herron ("Suppl. Herron Report") at 7–8. Second, Youth Movement denies the Secretary's argument, unsupported by any "record citation," Local Rule 56.1(b), that HB 1569 does not "require the Organizational Plaintiffs to engage in conduct of any kind, nor does it prohibit or restrict the Organizational Plaintiffs' conduct of their

core activities, as they see fit." Mem. at 8. As the Court already held, HB 1569 means that "Youth Movement must change each of [its voter-engagement] programs." ECF No. 76 at 9. Third, Youth Movement denies the Secretary's claim that "[n]one of the four Organizational Plaintiffs have standing." Mem. at 8.

The Secretary's discussion of HB 1569 is also very incomplete. In particular, it ignores record evidence that, in recent elections before HB 1569 took effect, thousands of voters relied on QVAs to prove their citizenship. *See* Ex. 1, Herron Report at 21–26; Ex. 2, Suppl. Herron Report at 2–7; Ex. 3, Dep. of Dr. Michael Herron ("Herron Dep.") at 32:6–13; Ex. 4, Dep. of Kristin Martino, Patricia Piecuch, & David Scanlan ("Secretary Dep.") Vol. I at 212:1–213:21, 264:19–265:7. That, no doubt, is because thousands of New Hampshire citizens lack ready access to documentary proof of their citizenship. Ex. 1, Herron Report at 41–78; Ex. 4, Secretary Dep. Vol. I at 129:13–25; *see also* Ex. 5, Secretary Dep. Vol. II at 514:18–23. The record also shows that out of nearly 8.2 million ballots cast in New Hampshire elections from 2016 to 2025, the state has identified at most 26 ballots cast by a total of 8 non-citizens. *See* Ex. 1, Herron Report at 12; Ex. 6, Dep. of Brendan O'Donnell ("O'Donnell Dep.") at 92:12–93:20. And at least four of those non-citizens did not use a QVA to register. Ex. 6, O'Donnell Dep. at 140:7–16.

The Secretary fails to mention that New Hampshire held its first elections under HB 1569's proof-of-citizenship requirement on March 11, 2025, and on November 4, 2025. Ex. 4, Secretary Dep. Vol. I at 271:24–274:8; Ex. 6, O'Donnell Dep. at 208:17–21; Ex. 1, Herron Report at 72–73; ECF No. 88-29, Youth Movement Interrog. Resp. ("YM Interrog. Resp.") at 8–9. Even in these traditionally low-turnout town elections, dozens of citizens seeking to register or re-register were turned away because they lacked proof-of-citizenship—including, in some places, as many as one in five voters. ECF No. 88-29, YM Interrog. Resp. at 8–9; Ex. 1, Herron Report at 72–74. Some

of these voters were disenfranchised. ECF No. 88-29, YM Interrog. Resp. at 8–9, 29; Ex. 5, Secretary Dep. Vol. II at 525:21–526:3; Ex. 7 (local official emails regarding March election). There is no evidence any of these individuals are not citizens.

Finally, while the Secretary discusses HB 464 (2025), he does not mention that the "resources" that HB 464 makes available to local officials to confirm voter eligibility will not cover citizens who move to New Hampshire from outside the state, including college students, and that the State has provided almost no guidance on implementation of the law. *See* Ex. 4, Secretary Dep. Vol. I at 118:16–22, 119:5–9. And, even under HB 464, qualified citizens who are unable to provide proof are unable to vote. Ex. 8 (Secretary's responses to questions "[f]requently [a]sked" by local officials); Ex. 4, Secretary Dep. Vol. I at 271:12–23; *see also* Ex. 5, Secretary Dep. Vol. II at 445:14–19.

II. Pages 12 to 14, 20 to 21, and 25: HB 1569's proof-of-citizenship requirement injures Youth Movement as an organization.

Across three separate sections, the Secretary asserts facts he says show Youth Movement is not harmed as an organization. Mem. at 12–14, 20–21, 25. Many of these facts are disputed.

First, on pages 13 to 14, the Secretary acknowledges Youth Movement's interrogatory responses and depositions describing harm to its core programs from HB 1569, but he then objects to Youth Movement's redaction or withholding of *other* documents that the Secretary thinks might be relevant to that issue. This is an inappropriate backdoor effort to obtain a discovery sanction for an issue that the Secretary never even conferred on, much less brought to the Court on a timely motion to compel. The documents in question were withheld and redacted based on an explicit claim of First Amendment privilege. *See Ams. for Prosperity Found. v. Bonta*, 594 U.S. 595, 606–16 (2021) (discussing *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 462 (1958)). If the Secretary disagreed, he could have challenged that claim during the discovery period. He did not.

See Corvello v. New England Gas Co., 243 F.R.D. 28, 34 (D.R.I. 2007) ("If the party seeking discovery does not promptly challenge a claim of privilege, 'the process ends with the claim of privilege *de facto* upheld.'" (quoting *PaineWebber Grp., Inc. v. Zinsmeyer Trs. P'ship*, 187 F.3d 988, 992 (8th Cir. 1999))); *Evans v. Taco Bell Corp.*, 04-CV-103, 2005 WL 1592984, at *7 (D.N.H. June 30, 2005) (failure to timely object and request additional production forfeits right to information).

In any event, record evidence supports harm to Youth Movement's core programs, so the Secretary's assertion that there was no such harm is disputed at best. Testimony from Youth Movement's executive director and sworn interrogatory responses explain the organization has already taken steps to retool and add new components to "core services"—its pledge to vote (PTV), voter registration (VR), and get out the vote (GOTV) programs—precisely because, as the Secretary concedes, HB 1569 "makes it harder for young people to register," Mem. at 21; *see* ECF No. 88-5, Dep. of Sayles Kasten ("Kasten Dep.") at 69:5–15, 89:15–91:19; ECF No. 88-29, YM Interrog. Resp. at 10–11, 16–17. That includes, among other things, initiating an expansion of its partnership with local officials to provide pre-election-day VR services on-site at public events, ECF No. 88-5, Kasten Dep. at 70:3–11, 88:21–89:9, as well as adding and training staffers who will carry out additional "layers" of its PTV and GOTV programs, *id.* at 89:15–91:19; ECF No. 88-29, YM Interrog. Resp. at 10–11, 16–17; Ex. 9 (correspondence with local election officials); Ex. 10 (social media posts).

Second, on pages 20 to 21, the Secretary asserts without record citation that "HB 1569 does not make it harder to run PTV, VR, or GOTV programs." Mem. at 21. This, too, is disputed at best. Youth Movement's PTV program is less effective without additional layers because, unlike in pre-HB 1569 elections, Youth Movement cannot be confident that voters it "pledges" to vote

will be able to register because QVAs are no longer a backstop for those without proof. ECF No. 88-5, Kasten Dep. at 104:21–105:12, 105:19–106:4; ECF No. 88-29, YM Interrog. Resp. at 16–17. Additionally, its VR and GOTV models were built on the reliability of same-day registration, ECF No. 88-5, Kasten Dep. at 104:21–105:12—yet, even the Secretary admits that it is now "prudent" for voters to register well in advance of election day to avoid issues with satisfying the requirement, Ex. 11 (email of Orville "Bud" Fitch); *see also* Ex. 5, Secretary Dep. Vol. II at 460:22–461:10.

Third, on page 25, the Secretary asserts without record citation that "Youth Movement cannot identify any core activity or service from which it diverted or redirected resources, or activities that have been curtailed due to HB 1569." Mem. at 25. This, again, is disputed. Testimony disregarded by the Secretary states, for example, that the steps Youth Movement is taking come specifically at the expense of its ability to engage in its "youth voter education mobilization" because it must place a greater focus on counteracting harm to its PTV, VR, and GOTV programs. ECF No. 88-5, Kasten Dep. at 91:12-19; *see also id.* at 69:22–70:2 (discussing need to "repurpose . . . staff time to go towards building stronger relationships with college administrations" to ensure they are helping students bring proof of citizenship); *id.* 156:2–6 ("It takes time—it takes time to put everyone through the training, it takes time to answer questions, it takes time to prepare those trainings and so that time could have been used for other things.").

III. Pages 30 to 33: HB 1569's proof-of-citizenship requirement injures Youth Movement's members.

In the final fact section addressed to Youth Movement, the Secretary contends that Youth Movement has not shown injury to a member because each of the five members Youth Movement has identified is now registered to vote. Mem. at 30–33. The fact that those five specific members are each now registered to vote is undisputed. (As Youth Movement explains below, that fact does

not have the legal significance that the Secretary attributes to it.) However, the Secretary ignores record evidence that Youth Movement has many other teenage members who are not yet registered to vote, and in some cases are not yet eligible to vote, but who will become eligible in the future and will be harmed by HB 1569. *E.g.*, ECF 88-5, Kasten Dep. at 159:14–20; ECF No. 88-9, Dep. of Kyleigh "Kai" Musick ("Musick Dep.") at 18:7–20 (discussing high school members in Dover); ECF No. 88-41, YM Suppl. Interrog. Resp. at 2–3. The Secretary also ignores record evidence that Youth Movement member Sumner was injured by HB 1569 when registering to vote late last year. ECF No. 88-15, Dep. of Tess Sumner ("Sumner Dep.") at 43:6–44:10.

Youth Movement also disputes the Secretary's characterization of its identified members' plans regarding whether they will move in the future. Mem. at 31. As their testimony as a whole makes clear, each is substantially likely to move, and thus will have to re-register. *E.g.*, ECF No. 88-17, Dep. of Kara Montagano ("Montagano Dep.") at 21:23–22:1, 29:17–20, 30:1–3; ECF No. 88-9, Musick Dep. at 10:16–11:6; ECF No. 88-10, Dep. of Ty Wyman ("Wyman Dep.") at 28:2–29:23; ECF No. 88-15, Sumner Dep. at 8:20–22.

Finally, the Secretary's long discussion of the circumstances of Musick's recent voter registration experience, Mem. at 31–33, serves only to make clear that those circumstances—and thus whether Musick was harmed by HB 1569—are disputed, and therefore not suited to summary judgment. What the record evidence shows is that Musick was able to register but had to make an extra trip to do so. ECF No. 88-41, YM Suppl. Interrog. Resp. at 2–3. The Secretary is incredulous that Musick could forget proof of citizenship after being deposed in this case, Mem. at 31–33, but the Secretary himself still does not have a REAL ID because "[e]very time I go to get one, I seem to forget one document that I need," Ex. 5, Secretary Dep. Vol. II at 552:14–19. People forget or misplace things, *id.* at 129:13–25 ("It's fairly common."), which is part of why HB 1569 is so

harmful.

LEGAL STANDARD

Federal Rule of Civil Procedure 56 permits summary judgment only "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." "To prevail at summary judgment on standing grounds, the defendant must show that the record is devoid of evidence raising a genuine issue of material fact that would support the plaintiff's ultimate burden of proving standing." *Suarez-Torres v. Panaderia Y Reposteria España, Inc.*, 988 F.3d 542, 550 (1st Cir. 2021). "All reasonable inferences must be drawn in favor of the non-moving party." *Beacon Mut. Ins. Co. v. OneBeacon Ins. Grp.*, 376 F.3d 8, 10 (1st Cir. 2004). A plaintiff may point to "affidavit[s]" or any "other evidence" in support of facts "regarding the elements of standing." *Suarez-Torres*, 988 F.3d at 550 (quoting *Day v. Bond*, 500 F.3d 1127, 1132 (10th Cir. 2007)).

ARGUMENT

I. Youth Movement has associational standing to challenge HB 1569's proof-of-citizenship requirement.

An organization has standing to sue on behalf of its members when (a) at least one member would have standing to sue individually, (b) the interests the organization seeks to protect are "germane to the organization's purpose," and (c) the claim and type of relief requested do not require individual participation of the members. *Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 343 (1977). The Secretary appears to contest all three factors ("the *Hunt* factors"), Mem. at 29–38, but the Court already rejected most of his arguments in denying the motion to dismiss, ECF No. 76 at 11–14, and the Secretary fails to show that the summary judgment posture changes anything.

A. Youth Movement members would have standing to challenge the proof-of-citizenship requirement.

An association satisfies the first prong of the *Hunt* test by demonstrating that "at least one member . . . suffered an injury in fact that [was] concrete, particularized, and actual or imminent, likely caused by the defendant, and likely [to] be redressed by judicial relief." *Housatonic River Initiative v. EPA*, 75 F.4th 248, 265 (1st Cir. 2023) (internal quotation marks and citation omitted). "Only one member of an organization need have individual standing for that organization to satisfy" the requirement. *President & Fellows of Harvard Coll. v. U.S. Dep't of Health & Hum. Servs.*, Nos. 25-cv-11048, 25-10910, 2025 WL 2528380, at *15 (D. Mass. Sep. 3, 2025), and any "'identifiable trifle' of injury" is sufficient, *Adams v. Watson*, 10 F.3d 915, 918 (1st Cir. 1993) (citation omitted). The Secretary does not seriously contest that injuries to individual voters are traceable to the Secretary, or that an injunction preventing HB 1569's enforcement would redress them (*see infra* Argument § I.C), and so the only question remaining in the first prong of the *Hunt* test is whether Youth Movement has demonstrated that at least one member has suffered or imminently will suffer an injury. The record confirms this is true of numerous members.

1. Unregistered members would have standing.

a. Kai Musick. This Court held that the allegations in the Amended Complaint establish that Musick has individual voter standing because, at the time the action was filed, Musick was an unregistered "17-year-old U.S. citizen resident of Dover" who would be forced to satisfy the proof-of-citizenship requirement to register to vote ahead of the 2026 election. ECF No. 76 at 11–12(citing *People First of Ala. v. Merrill*, 467 F. Supp. 3d 1179, 1198 (N.D. Ala. 2020); *Common Cause/Ga. v. Billups*, 554 F.3d 1340, 1351–52 (11th Cir. 2009); *Fish v. Schwab*, 957 F.3d 1105, 1121–36 (10th Cir. 2020)). The record confirms these facts, Mem. at 30 (citing ECF No. 88-41); *see* ECF No. 88-9, Musick Dep. at 5:20–23, 7:15–16, and the Court may once again simply

"begin[] and end[] its analysis with Musick," ECF No. 76 at 11.

It is true that Musick—after the filing of the Amended Complaint—recently registered to vote in Dover. YM Suppl. Interrog. Resp. at 3. But that would raise at most a question of mootness, not standing. Standing considers whether there is a case or controversy *at the time the action is filed*, while it is mootness that considers whether subsequent events make it impossible for the Court to grant any 'effectual relief' to the prevailing party. *Am. C.L. Union of Mass. v. U.S. Conf. of Cath. Bishops*, 705 F.3d 44, 53 (1st Cir. 2013) (citing *Horizon Bank & Tr. Co. v. Massachusetts*, 391 F.3d 48, 53 (1st Cir. 2004)).

That distinction matters, because "there are circumstances in which the prospect that a defendant will engage in (or resume) harmful conduct may be too speculative to support standing, but not too speculative to overcome mootness." *Friends of the Earth, Inc. v. Laidlaw Env't Servs.*, 528 U.S. 167, 190 (2000). Those circumstances include elections, where the Supreme Court has recognized that even if a particular plaintiff "now can vote, the problem to voters posed by the [challenged law] is 'capable of repetition, yet evading review,'" so the case is not moot. *Dunn v. Blumstein*, 405 U.S. 330, 333 n.2 (1972) (quoting *Moore v. Ogilvie*, 394 U.S. 814, 816 (1969)).[1] And any time Musick moves between towns, Musick will need to comply with HB 1569 again.

The Secretary also suggests Musick cannot show an injury because "[f]orgetfulness cannot form the basis of injury-in-fact, and it likely severs any possible causal nexus since the forgetful plaintiff's actions—not the defendant's—caused the harm." Mem. at 33. But, as this Court has already observed, the injury here is the requirement to comply with a prerequisite to exercising the

[1] *See also Storer v. Brown*, 415 U.S. 724, 737 n.8 (1974) (similar); *Ctr. for Individual Freedom v. Carmouche*, 449 F.3d 655, 662 (5th Cir. 2006) (similar); *Driver v. Town of Richmond ex rel. Krugman*, 570 F. Supp. 2d 269, 274 (D.R.I. 2008) (collecting cases); *Stringer v. Pablos*, 274 F. Supp. 3d 588, 592–93 (W.D. Tex. 2017) (collecting cases); *La Botz v. FEC*, 889 F. Supp. 2d 51, 59 (D.D.C. 2012) (collecting cases).

right to vote, and does not turn on the *extent* of that injury. ECF No. 76 at 13. After all, any "'identifiable trifle' of injury" is sufficient for standing. *Adams*, 10 F.3d at 918. In other words, evidence that people like Musick (and the Secretary, Ex. 5, Secretary Dep. Vol. II at 552:14–19) sometimes forget their documents implicates the magnitude of the burden *on the merits*—not standing. ECF No. 76 at 13 ("[T]his argument conflates standing with the merits of the claim.").[2]

b. Additional unregistered members. Moreover, even if Musick's claim would be moot, Musick is not the plaintiff—Youth Movement is. And record evidence shows Youth Movement has other high school and college-student members who are not yet registered to vote and will invariably be injured by HB 1569 when they do register. ECF No. 88-5, Kasten Dep. at 118:11–13 ("[T]here's a lot of people on our membership who are freshmen in college and just turned 18 and have not registered to vote yet."); *see* ECF No. 88-41, YM Suppl. Interrog. Resp. at 3. Indeed, each year, thousands of students from across New Hampshire and throughout the nation begin college in the state and, each year, a number of them join Youth Movement. To vote, these members will have to comply with the proof-of-citizenship requirement. *See* ECF 88-5, Kasten Dep. at 119:1-5 ("[T]here are many people who are involved in our organization who are not yet registered because they're young and I think it is highly unlikely that they all have easy access to prove their citizenship.").

It is true that Youth Movement has not identified these other members by name—in part

[2] The Secretary appears to cast doubt on the veracity of Musick's experience registering to vote. *See* Mem. at 32–33. While it may come as a surprise to the Secretary that even well-informed 18-year-olds sometimes forget their documents, that is hardly surprising to Youth Movement. *See supra* p. 7. The Secretary's complaint that Youth Movement "did not supplement the deponent's interrogatories" until November 7, Mem. at 33, is highly exaggerated and misstates Youth Movement's obligations: The election occurred three days beforehand and Youth Movement learned of Musick's registration the same day it informed the Secretary of this fact. Musick is not a party to this case and has no "interrogatories" to supplement independent of Youth Movement's.

because, as Musick's experience indicates, it is an inherently moving target. But the Secretary does not cite any case requiring Youth Movement to do so. Courts, wary of speculative harm, have "required plaintiffs claiming an organizational standing to identify members who *have suffered* the requisite harm." *Summers v. Earth Island Inst.*, 555 U.S. 488, 499 (2009) (emphasis added); *see also Draper v. Healey*, 827 F.3d 1, 3 (1st Cir. 2016) ("[T]he association must, at the very least, identify a member who *has suffered* the requisite harm." (emphasis added) (alternations omitted)). But Youth Movement made that showing with Musick and Sumner. *See* ECF No. 88-41, YM Suppl. Interrog. Resp. at 3 (describing Musick's experience registering to vote); ECF No. 88-15, Sumner Dep. at 43:6–44:10 (same for Sumner). Nothing in *Summers* or *Draper* requires Youth Movement to continually update its list of identified members to include members who have not yet been injured.

For that reason, courts have consistently held that "even if a named member's claims . . . become *moot*, the association retain[s] standing because the named member had standing at the outset of the litigation." *Waskul v. Washtenaw Cnty. Cmty. Mental Health*, 900 F.3d 250, 257–58 (6th Cir. 2018) (emphasis added) (citing *Cleveland Branch, NAACP v. City of Parma*, 263 F.3d 513, 525 (6th Cir. 2001)); *Or. Advoc. Ctr. v. Mink*, 322 F.3d 1101, 1118 (9th Cir. 2003) (similar); *see also Ass'n for Disabled Ams., Inc. v. Reinfeld Anderson Fam. Ltd.*, No. 1:12-cv-23798, 2015 WL 1810536, at *5 (S.D. Fla. Apr. 21, 2015) ("While Ruiz may no longer obtain medical care from Dr. Reinfeld, members of the Association may seek to obtain care. Thus, there is a reasonable expectation that, at least with respect to the Association, *the plaintiff* would be subject to the same action again." (citing *Arcia v. Fla. Sec'y of State*, 772 F.3d 1335, 1343 (11th Cir. 2014))).

Given that at least two identified members have been forced to comply with the requirement—Musick, in addition to Sumner—the fact that additional members will be subject to

the requirement is not speculative. Just the opposite: Sumner and Musick's injuries provide concrete proof that future injuries to *other* Youth Movement members are likely and so those injuries satisfy Article III standing. Youth Movement's standing is based on imminent injuries to a broad set of members, and the testimony of named members serves to identify the kinds of injuries others will face.

2. Already registered members would have standing.

Contrary to the Secretary's arguments, it is far from "speculative" that some Youth Movement members who are currently registered will move to another part of the state and be forced to comply with the requirement in the future, supplying another independent basis for associational standing in this case. *See* ECF No. 76 at 13–14 (noting this additional theory). It is true that, under HB 1569 and HB 464, voters are not required to produce proof of citizenship if the local election official identifies a prior registration for the individual within the state using SVRS or other databases. However, as detailed below, the record shows that there is far from any guarantee that election officials will (a) have access to SVRS or other databases on election day, (b) actually check these databases during the hustle-and-bustle of election day, and (c) be able to successfully confirm past registration status using SVRS. Especially considered in the light most favorable to Youth Movement, these facts remove any doubt that Youth Movement members will be subject to the proof-of-citizenship requirement in the near future.

The Secretary claims that none of the Youth Movement members specifically named in the Complaint have concrete plans to move, Mem. at 30, but the record shows that these named members *are* likely to move. For example, Montagano noted that her family, who she currently lives with in Lee, "move[s] quite frequently" and lives "[at] a rental property" that she "would like to" leave. ECF No. 88-17, Montagano Dep. at 21:23–22:1, 29:17–20, 30:1–3. Musick will be

graduating from high school and intends to go to college. ECF No. 88-9, Musick Dep. at 10:16–11:6. Wyman has a year left in college, and Sumner has three and a half years left. ECF No. 88-10, Wyman Dep. at 28:2–10; *see* ECF No. 88-15, Sumner Dep. at 8:20–22. It is hardly speculative that a group of primarily young high-school and college-age students has members who are likely to move around the state. The Secretary has not shown that no reasonable factfinder could find a sufficient risk of future harm for these voters.

The Secretary also argues that the fact that he will "provide access to" SVRS for local election officials who will be able to confirm prior registrations guarantees that these injuries will not occur, Mem. at 34, but the facts in the record—especially when construed in Youth Movement's favor—show that such access is frequently not possible, especially on election day. Deposition testimony from numerous witnesses confirmed that polling places frequently lack necessary internet access. *See* Ex. 12, Dep. of Richard Tracy ("Tracy Dep.") at 127:1–128:22 ("[S]ome parts of the state, the WiFi is limited, especially in the northern and western part of the state."); Ex. 4, Secretary Dep. Vol. I at 373:17–20 ("Q. . . . are you aware that there are polling places in New Hampshire that don't have reliable internet access? A. Yes."); *see also id.* at 170:5–14 ("Q. . . . a person accessing the SVRS would need internet to access the database, correct? A. Yes. . . . Not all of them do [have access to the internet]."). And Defendant's subsequent November 21, 2025, production—which included a survey commissioned by the Secretary's office and conducted from June 2025 through the fall—confirms numerous polling locations lack access to internet and/or cellular service. Ex. 13 (2025 Polling Place Survey); Ex. 4, Secretary Dep. Vol. I at 142:2–21. The survey shows at least 10% of polling locations lack access to internet (additional 5.1% "unsure"), and roughly 16% lack access to good cellular network services (additional 7.5%

unsure). Ex. 13.[3]

These survey results align with feedback election officials provided to the Secretary at a November 5, 2025, roundtable, as the meeting notes acknowledge: "Tech issues w/ SVRS prevalent." Ex. 14 (Nov. 5 Roundtable) at 2; *see also* Ex. 8 at 10 (acknowledging that election officials "often have difficulty with wireless connectivity at [their] polling place" and providing guidance that "[i]f you do not have access to the statewide voter registration system and have no way of verifying the voter's registration status, the voter will need to provide you with proof of citizenship"). Depositions also revealed that, even if a polling location has access to the internet, officials may still be unable to access SVRS: The polling location must have appropriate tech equipment, as the database cannot be accessed from one's personal phone or computer.[4]

Moreover, even if they have access, busy election officials may just simply fail to check prior registration, and ask the voter for proof of citizenship instead. *See* Ex. 15 (emails with Secretary of State's office showing that election officials often make these kinds of mistakes). Youth Movement member Kara Montagano was asked to re-prove her citizenship when she voted in the November 2024 election, despite already being registered to vote in New Hampshire. ECF No. 88-17, Montagano Dep. at 31:8–12. As Ms. Montagano lacks a passport and did not bring her birth certificate to the polls, *id.* at 11:15–16, 23:17–19, she would have been turned away under

[3] At least 16 polling locations do not have access to *either* the internet, good cellular services, or a landline or are unsure whether they do. *See* Ex. 14. And even if a polling location does have access to any of these, these all depend on electricity—and at least 23% of polling locations lack access to a generator as a power back-up (an additional 20% unsure). *See id.*

[4] *See* Ex. 12, Tracy Dep. at 127:14–18 ("I would think Manchester would have access to WiFi. I think their issue is they may not have the – the laptops or whatever to get – because you're not really – you shouldn't be using your personal computer for this."); Ex. 4, Secretary Dep. Vol. I at 176:2–22 ("Would they need a computer with them to access the SVRS database? A. Yes. Q. Could they access it on a mobile device? A. They may, but it may not work properly because our system works in Edge, Chrome, and Firefox. Q. Okay. Have you seen any election officials or otherwise asking questions about accessing the database on their mobile device? A. No.").

current law. Such past exposure to particular harm is evidence showing that future harm is not speculative; a "future injury" suffices so long as it is "certainly impending, *or* there is a substantial risk that the harm will occur." *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 157 (2014) (emphasis added) (internal quotation marks and citation omitted); *Dep't of Com. v. U.S. House of Reps.*, 525 U.S. 316, 332–33 (1999) (similar). Prior to HB 1569, these voters could have simply re-proven their citizenship by QVA, but now these voters will be forced to comply.

3. Relief would redress harms to Youth Movement's members caused by the Secretary's enforcement of HB 1569.

Although the Secretary's Motion does not squarely address causation and redressability, the record easily clears the second and third elements of the Article III standing inquiry. Members' injuries are fairly traceable to the Secretary, who is undisputedly in charge of implementing HB 1569 and HB 464. Ex. 4, Secretary Dep. Vol. I at 311:10–22. And it follows that an injunction preventing the Secretary from implementing the requirement would alleviate direct harms to Youth Movement's core activities as well as to members who would otherwise be subject to it. *See* ECF No. 76 at 14 ("[The member's] injury from the elimination of the Qualified Voter Affidavit is plainly traceable to the Secretary's enforcement of HB 1569 and would be redressed by a court order enjoining the elimination of the Affidavit."); *see also infra* Argument § I.C.

B. HB 1569's elimination of qualified voter affidavits is germane to Youth Movement's purpose of registering and mobilizing young voters.

To establish associational standing, a plaintiff must show that "the interests it seeks to protect are germane to the organization's purpose." *Hunt*, 432 U.S. at 343. "[T]he purpose of the *Hunt* germaneness test is not to nitpick subtle gradations of harm, but rather to raise an assurance that the association's litigators will themselves have a stake in the resolution of the dispute, and thus be in a position to serve as the defendant's natural adversary," ensuring "adversarial vigor." *Am. Pub. Health Ass'n v. NIH*, 786 F. Supp. 3d 237, 252 (D. Mass. 2025) (citation modified). For

this reason, an organization need only show "the interests at stake are *related* to the organization's core purposes." *Me. People's All. & Nat. Res. Def. Council v. Mallinckrodt, Inc.*, 471 F.3d 277, 283 (1st Cir. 2006) (emphasis added). "[T]he germaneness requirement is 'undemanding' and requires '*mere pertinence*' between the litigation at issue and the organization's purpose." *Ass'n of Am. Physicians & Surgeons, Inc. v. Tex. Med. Bd.*, 627 F.3d 547, 551 (5th Cir. 2010); *Bldg. & Const. Trades Council v. Downtown Dev., Inc.*, 448 F.3d 138, 148 (2d Cir. 2006); *Schalamar Creek Mobile Homeowner's Ass'n v. Adler*, 855 F. App'x 546 (11th Cir. 2021) (per curiam).

As Defendant concedes, Youth Movement's members joined to increase their political voice and influence. Mem. at 35. Youth Movement helps them do so by inspiring and assisting young people to register and vote; the process of voter registration is plainly "related to" Youth Movement's core purpose of empowering young people by inspiring and assisting them to register and vote. *Infra* Argument § II.B. In 2024, for example, Youth Movement partnered with township election officials to conduct a series of on-campus voter registration events at which roughly 500 students registered. ECF No. 88-5, Kasten Dep. at 27:17–28:21. When organizing on campuses Youth Movement asks students to sign "pledge to vote" cards and then as the election draws near provides those students with details about how to register. *Id.* at 59:19–60:15. Youth Movement has also provided guidance on voter registration through social media and printed materials. *Id.* at 74:3–75:14. Under the pre-HB 1569 rules, the effort to register students was simpler, but was indisputably integrated into Youth Movement's daily operations and long-term goals. It wasn't merely "relevant" to Youth Movement's purpose, it was—and continues to be—central to it.

The Secretary musters little response. He points out—in an argument section, not an undisputed facts section—that Youth Movement's board of directors has not considered resolutions relating to elections, voter registration, or voting. Mem. at 36. But Youth Movement

simply does not set its priorities by board resolution—the only resolution of *any* kind adopted by the board in recent years was a single ministerial resolution formalizing a change in leadership and authorizing the new leaders to sign for banking purposes. *See* Ex. 16. Plaintiff has produced numerous documents demonstrating the centrality of voter registration to their pursuit of their core purposes, all of which were ignored by the Secretary. *See* Ex. 10 (social media posts); ECF No. 88-18 (2024 Report) at 5 (discussing opposition to HB 1569 and bill's impact on voter registration); Ex. 17 (correspondence with members discussing how to check voter registration status); *see also* Ex. 18 (Kasten General Court Testimony on HB 1569). At best, there is a dispute of fact on this issue.

C. Participation of individual members is not required, and Youth Movement seeks prospective relief.

The Secretary argues that "Youth Movement's Challenge to House Bill 1569 Is Inherently Retrospective and Would Require Its Members' Individual Participation." Mem. at 36–38. The Secretary largely repeats the same argument from his motion to dismiss, *see* ECF No. 54-1 at 20-21, which the Court already rejected with "little discussion," ECF 76 at 16–17. Individual members' participation is not necessary because Youth Movement seeks an order declaring the proof-of-citizenship requirement unconstitutional and enjoining its enforcement. *See Housatonic River Initiative*, 75 F.4th at 265–66 (citing *Animal Welfare Inst.*, 623 F.3d at 25). Such relief would "inure to the benefit of those members" who are injured, so the third *Hunt* factor is readily satisfied. *Id.* (quoting *Warth v. Seldin*, 422 U.S. 490, 515 (1975)) (citing *Playboy Enters., Inc. v. Pub. Serv. Comm'n of P.R.*, 906 F.2d 25, 35–36 (1st Cir. 1990)).

The Secretary argues that this case is different because the Court supposedly must "evaluate individualized factual circumstances for each allegedly affected member." Mem. at 37. It is not clear why the Secretary thinks that is true; it is not how other courts have previously

addressed claims like this one. *See Fish*, 957 F.3d at 1127–36 (holding documentary proof of citizenship law unconstitutional based on its burdens on voters generally, rather than considering the individual circumstances of every affected voter). And even where claims do "require individualized consideration of [some] members' experiences, this is no bar to associational standing because the requested injunctive relief will inure to the benefit of all injured class members." *Louis D. Brandeis Ctr. for Hum. Rts. Under L. v. President & Fellows of Harvard Coll.*, No. 1:24-cv-11354-RGS, 2024 WL 4681802, at *4 (D. Mass. Nov. 5, 2024) (citing *Warth*, 422 U.S. at 515). This principle has routinely and recently been applied in similar cases challenging restrictions on the right to vote. *Eakin v. Adams Cnty. Bd. of Elections*, 775 F. Supp. 3d 903, 911 n.4 (W.D. Pa.) (enjoining law requiring rejection of certain mail ballots, holding that an *Anderson-Burdick* claim "does not depend on . . . the participation of the individual" members), *aff'd*, 149 F.4th 291 (3d Cir. 2025).[5]

II. Youth Movement has organizational standing to challenge HB 1569's proof-of-citizenship requirement.

The record also substantiates Youth Movement's allegations that HB 1569's proof-of-citizenship requirement "directly affect[s] and interfere[s] with its core business activities" by making its voter registration programs more difficult to carry out—an injury this Court already held satisfies Article III. ECF No. 76 at 8 (citing *LULAC v. EOP*, 780 F. Supp. 3d 135, 190 (D.D.C. 2025)). Because relief holding that HB 1569's elimination of the QVA and blocking the law's

[5] The Secretary also puzzlingly argues that, because "Youth Movement asks this Court to ***reinstate*** a repealed statute," the relief is "fundamentally ***retro***spective—it seeks to invalidate a duly enacted state law and revive a statutory scheme that is no longer in force." Mem. at 37. The Secretary does not cite any support for this argument, and there is none. What Youth Movement seeks is an injunction against future violations of federal law, and that is prospective relief. *See, e.g.*, *Cotto v. Campbell*, 126 F.4th 761, 772 (1st Cir. 2025), *petition for cert. filed*, No. 24-1307 (U.S. Apr. 9, 2025). An injunction blocking this aspect of HB 1569 would simply return the law to its prior state. *See* ECF No. 88-40 at 35–36, 39.

enforcement would redress that harm, Youth Movement has standing to challenge the law on that basis as well. *See id.* at 8–9.

A. Perceptible harm to an organization's core services satisfies Article III's injury-in-fact requirement.

At the outset, the Secretary's argument relies on a misstatement of the organizational standing test—specifically, he argues that Youth Movement must show that it has "been subjected to operational costs beyond those normally expended to fulfill its core aims" to establish standing. Mem. at 11 (citation modified) (quoting *Coal. for Humane Immigrant Rts. v. DHS*, 780 F. Supp. 3d 79, 88 (D.D.C. 2025)). That is not the law. An organization satisfies Article III's injury-in-fact requirement by showing that a challenged act "perceptibly impair[s]" its ability to carry out "core" activities. *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 & n.19 (1982); *FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 369 (2024); ECF No. 76 at 7–8. Perhaps increased "operational costs" could be one way to make that showing, as the D.C. Circuit case from which that language ultimately comes suggests—but it is not a standalone requirement.[6] Nothing in Supreme Court or First Circuit precedent requires Youth Movement to show specifically increased operational costs, rather than some other form of injury. In arguing otherwise, the Secretary "relies on an unworkably cramped theory of what it means to 'impair' an organization's mission that is inconsistent with precedent." *LULAC*, 780 F. Supp. 3d 190.

Here, Youth Movement is harmed by the requirement because it adds a new prerequisite to registering to vote that will make it harder for Youth Movement to conduct its existing get-out-

[6] The Secretary's brief claims that the "operational costs" language from the D.D.C. *Coalition for Humane Immigrant Rights* case comes from the Supreme Court's decision in *Alliance for Hippocratic Medicine*, Mem. at 11, but it does not. It comes from the D.C. Circuit's 1995 decision in *National Taxpayers Union, Inc. v. United States*, 68 F.3d 1428, 1434 (D.C. Cir. 1995). The difference matters, because *Alliance for Hippocratic Medicine* clarified that the focus of the organizational standing inquiry must be on injury to core activities. 602 U.S. at 395.

the-vote and voter-registration programming. As this and other courts have recently found, that is sufficient to establish standing. ECF No. 76 at 8–9; *see also LULAC*, 780 F. Supp. 3d 190 (holding that nonprofit groups and political parties had standing to challenge the President's attempt to implement proof-of-citizenship requirement because such a requirement makes the work of registering voters more difficult, granting preliminary injunction); *LULAC v. EOP*, 2025 WL 3042704, at *16 (D.D.C. Oct. 31, 2025) (affirming holding at summary judgment, entering permanent injunction); *Equal Means Equal v. Ferriero*, 3 F.4th 24, 30 (1st Cir. 2021); *League of Women Voters of N.H. v. Kramer*, 24-cv-73, 2025 WL 919897, at *9 (D.N.H. Mar. 26, 2025).[7]

B. The record confirms that HB 1569 perceptibly impairs Youth Movement's core services.

There is ample record support showing that Youth Movement's pledge to vote ("PTV"), voter registration, and get-out-the-vote ("GOTV") programs—which are undisputedly core to Youth Movement's mission, Mem. at 12 (citing ECF No. 88-5, Kasten Dep. Tr. 27:17–28:6; 58:17–59:14; 62:21–63:1)—are perceptibly impaired by the proof-of-citizenship requirement.

Start with Youth Movement's PTV program. The "aim" of this program is to "recruit young citizens, including students and first-time voters, to make their voice heard by asking them to pledge to vote in upcoming elections." ECF No. 88-29, YM Interrog. Resp. at 11. Youth Movement's PTV program is especially important in the context of New Hampshire's voting laws because, unlike in some other states, third-party groups like Youth Movement are not allowed to directly register voters. *See* ECF No. 88-5, Kasten Dep. at 90:14–91:7, 105:19–106:4. And by making initial contact with voters through its PTV program, Youth Movement is able to continue supporting them later with assistance during the registration and voting process. *Id.*; *see also* ECF

[7] In any event, as highlighted below, the record shows that Youth Movement has increased its operational costs. *See infra* Argument § II.B.

No. 88-18 (2024 Report) at 4; Ex. 19 (Youth Movement flyer). Prior to HB 1569, Youth Movement could be confident that voters it pledged to vote would be able to register because QVAs provided a backstop even for those without proof of citizenship. *See* ECF No. 88-5, Kasten Dep. at 106:11–23; *see also* Ex. 1, Herron Report 21–26, 34–36. Now, Youth Movement must take additional steps to ensure that voters who pledge to vote through their program can satisfy the requirement—including by following up to ensure the voter gathered a qualifying document. ECF No. 88-29, YM Interrog. Resp. at 11; *see* ECF No. 88-5, Kasten Dep. at 71:4–12, 105:19–106:4. These additional steps are necessary for Youth Movement to preserve the efficacy of its PTV program because—as the State has admitted, many voters do not have any form of proof and others lack easy access. Ex. 4, Secretary Dep. Vol. I at 129:13–25; Ex. 5, Secretary Dep. Vol. II at 514:18–23, 552:14–19; Ex. 1, Herron Report at 41–78. And, as Youth Movement's representative testified, it is implementing these steps in connection with its PTV programming in 2026. ECF No. 88-5, Kasten Dep. at 102:15–20, 105:15–106:23.

Similarly, Youth Movement's voter registration services—which provide "direct support" as well as education "to voters as they complete the voter registration process, including through in-person tabling events, text banking, social media posts and guides, and other digital messaging campaigns"—are threatened by the proof-of-citizenship requirement. ECF No. 88-29, YM Interrog. Resp. at 11. The goal of this program, of course, is to ensure that their voters are able to register and vote—the single most important thing that the group's members and constituents can to do advance its mission. *Id.* at 10–11, 16–17; ECF No. 88-5, Kasten Dep. at 89:15–22, 120:6–14. Youth Movement now must take additional steps to counteract the risk that not all its voters will be able to do so. The facts around Youth Movement's efforts to form "partner[ships] with local election officials" to register voters "on site," Mem. at 12–13, are illustrative. Prior to HB

1569, some members had participated in programs aimed at bringing local election officials to register voters at events on-site ahead of major elections. ECF No. 88-5, Kasten Dep. at 69:3–11, 88:21–89:9, 89:15–91:19. Because it is now "prudent" for more voters to register to vote in advance of election day to avoid issues with satisfying the proof-of-citizenship requirement on election day, Ex. 11 (email of Orville "Bud" Fitch); *see* Ex. 5, Secretary Dep. Vol. II at 460:22–461:10, Youth Movement is growing and formalizing this program, ECF No. 88-29, YM Interrog. Resp. at 17; *see also* Ex. 9 (correspondence with Durham). In fact, Youth Movement "has already spent staff time and resources preparing to coordinate member participation in these programs on a large scale for the first time." ECF No. 88-29, YM Interrog. Resp. at 17; *see also* ECF No. 88-5, Kasten Dep. at 100:13–18.

Finally, and for similar reasons, Youth Movement's GOTV program is impaired by the proof-of-citizenship requirement. This program, for example, provides "rides to the polls for students and other young people who do not have access to cars or other forms of transportation," but services to get voters to the polls are for naught if voters are turned away for lack of documentation. ECF No. 88-29, YM Interrog. Resp. at 11; ECF No. 88-5, Kasten Dep. at 69:5–15, 89:15–91:19. Youth Movement now must counteract the risk that its GOTV services will be undermined on election day—when a vast majority of first-time voters register, including high schoolers and college students, Ex. 1, Herron Report at 12–14, 38–40—by taking additional steps to ensure voters are actually able to complete the registration process, ECF No. 88-5, Kasten Dep. at 70:3–11, 88:21–91:19 (explaining that Youth Movement will implement new training and change its talking points and scripts for its GOTV program). The Secretary's own brief concedes that Youth Movement will have "'to add an additional layer of programming' to its GOTV activities." Mem. at 25 (quoting ECF No. 88-5, Kasten Dep. at 69:3–11).

As this Court has already concluded, these are not mere setbacks to Youth Movement's "abstract social interests," Mem. at 20–21, but rather direct interferences with its ability to accomplish its mission through its core services, ECF No. 76 at 9 (citing *LULAC*, 780 F. Supp. 3d at 190); *LULAC*, 780 F. Supp. 3d at 190 ("The burden that a documentary-proof-of-citizenship requirement would impose on the Nonpartisan Plaintiffs would be far more than simply a setback to their abstract social interests. Instead, it would be a direct impediment to one of the organizations' core business activities: registering eligible voters." (citation modified)); *LULAC*, 2025 WL 3042704, at *16 (reaffirming same decision at summary judgment based on evidence showing that plaintiffs were planning to implement changes to registration programs); *see also League of Women Voters v. Newby*, 838 F.3d 1, 8 (D.C. Cir. 2016) (similar); *Kramer*, 2025 WL 919897, at *9 (D.N.H. Mar. 26, 2025) (efforts to help voters confirm registration status in response to robocalls threatening voting rights was not merely "a general legal, moral, ideological, or policy objection" (quoting *Alliance*, 602 U.S. at 381)).

C. The Secretary's remaining injury arguments fail.

The Secretary hardly acknowledges any of this and instead makes broad assertions that are legally wrong, contradicted by the record, or both. First, the Secretary argues that "HB 1569 does not prevent Youth Movement from engaging in any of its core activities," Mem. at 13, but the relevant question is whether the law perceptibly impairs a core service, not whether it entirely prevents it. *See, e.g.*, *LULAC*, 2025 WL 3042704, at *16 (rejecting argument that program not harmed because organizations can still register some voters); *cf. Kramer*, 2025 WL 919897, at *9 (rejecting argument that ability to perform other services undermined standing).

Second, the Secretary argues that the "mere fact that Youth Movement's staff and volunteers had to ensure its voter outreach activities accurately reflect current law is not an abnormal operational cost or a deviation from routine activities," Mem. at 13–14, but the harm to

Youth Movement is not just the need to update its programs to conform to the law—but rather that its mission would be harmed if it did *not* take these steps. ECF No. 76 at 7–8. The Secretary simply ignores that harm, offering little more than a "cramped" and inappropriately myopic take on the impact to Youth Movement. *See LULAC*, 780 F. Supp. 3d at 190 (rejecting similar arguments); *LULAC*, 2025 WL 3042704, at *16 (same).

Third, the Secretary's assertion that Youth Movement has only *planned*, rather than *implemented*, additional steps—making any harm "speculative"—fares no better. *See* Mem. at 25. Indeed, the court in *LULAC* rejected precisely this argument, finding that evidence of such planning in fact shows that harm to the organization is *not* speculative. 2025 WL 3042704, at *14–17. The court further recognized that this kind of planning, including the use of staff time, is direct evidence of a diversion of resources to counteract harm. *See id.* To hold otherwise, the court reasoned, would undermine the ability to bring voting rights cases by creating an "unworkable" timing conundrum. *LULAC*, 780 F. Supp. 3d at 190. Here, the Secretary does not even attempt to dispute facts showing that such planning is *already* occurring. *See* Mem. at 25; *see also* ECF No. 88-5, Kasten Dep. at 100:13–18.[8]

CONCLUSION

The Court should deny the Secretary's Motion for Summary Judgment.

[8] In any event, the record confirms that Youth Movement has already implemented at least some changes to counteract the harm of the proof of citizenship requirement. *See, e.g.*, ECF No. 88-29, YM Interrog. Resp. at 11 (explaining updates to social media outreach around March election, staff time planning changes to core services); ECF No. 88-5, Kasten Dep. at 101:13–17; Ex. 10 (social media posts).

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served this 8th day of December, 2025 on all parties of record via the Court's electronic filing system.

Dated: December 8, 2025 /s/ David R. Fox